

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF NORTH DAKOTA**

**PHOENIX CAPITAL GROUP  
HOLDINGS, LLC,**

**Plaintiff,**

V.

## INCLINE ENERGY PARTNERS, L.P.

## Defendant.

Case No. 1:23-cv-00209

**DEFENDANT'S RULE 12(B)(6) MOTION TO DISMISS**

Defendant, Incline Energy Partners, L.P. (“Incline”), by and through its undersigned counsel, hereby moves this Court for an order under Rule 12(b)(6) of the Federal Rules of Civil Procedure to dismiss Plaintiff’s, Phoenix Capital Group Holdings, LLC, Complaint. In support of this motion, Incline incorporates the accompanying Brief in Support of Defendant’s Rule 12(b)(6) Motion to Dismiss.

Dated this 28<sup>th</sup> day of November, 2023.

Respectfully submitted,

By: /s/ Charlene C. Koonce  
Charlene C. Koonce  
Texas Bar No. 11672850  
charlene@brownfoxlaw.com

BROWN FOX PLLC  
8111 Preston Road, Suite 300  
Dallas, TX 75225  
Tel. 214.327.5000  
Fax. 214.327.5001  
Joshua A. Swanson  
North Dakota Bar No. 06788

VOGEL LAW FIRM  
Joshua A. Swanson  
218 NP Avenue  
PO Box 1389  
Fargo, ND 58107-1389  
701.237.6983  
[jswanson@vogellaw.com](mailto:jswanson@vogellaw.com)

*Attorneys for Defendant Incline Energy  
Partners, L.P.*